

Senate Bill 411

By: Senators Hudgens of the 47th, Goggans of the 7th, Seabaugh of the 28th, Mullis of the 53rd, Wiles of the 37th and others

AS PASSED

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 1 of Chapter 1 of Title 31 of the Official Code of Georgia Annotated,
2 relating to general provisions concerning health, so as to provide that no law or rule or
3 regulation shall compel any person, employer, or health care provider to participate in any
4 health care system; to authorize persons and employers to pay directly for lawful health care
5 services without penalties or fines; to provide for related matters; to amend Article 1 of
6 Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to general
7 provisions regarding insurance, so as to provide for exemptions from certain unfair trade
8 practices for certain wellness and health improvement programs that provide for rewards or
9 incentives in certain individual and group health insurance policies; to repeal conflicting
10 laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Article 1 of Chapter 1 of Title 31 of the Official Code of Georgia Annotated, relating to
14 general provisions concerning health, is amended by adding a new Code section to read as
15 follows:

16 "31-1-11.

17 (a) As used in this Code section, the term:

18 (1) 'Compel' includes penalties or fines.

19 (2) 'Direct payment' or 'pay directly' means payment for lawful health care services
20 without a public or private third party, not including an employer, paying for any portion
21 of the service.

22 (3) 'Health care system' means any public or private entity whose function or purpose is
23 the management of, processing of, enrollment of individuals for, or payment for, in full
24 or in part, health care services or health care data or health care information for its
25 participants.

(4) 'Lawful health care services' means any health related service or treatment to the extent that the service or treatment is permitted or not prohibited by law or regulation that may be provided by persons or businesses otherwise permitted to offer such services.

(5) 'Penalties or fines' means any civil or criminal penalty or fine, tax, salary or wage withholding or surcharge, or any named fee with a similar effect established by law or rule by a government established, created, or controlled agency that is used to punish or discourage the exercise of rights protected under this Code section.

(b) To preserve the freedom of citizens of this state to provide for their health care:

(1) No law or rule or regulation shall compel, directly or indirectly, any person, employer, or health care provider to participate in any health care system; and

(2) A person or employer may pay directly for lawful health care services and shall not be required to pay penalties or fines for paying directly for lawful health care services.

A health care provider may accept direct payment for lawful health care services and shall not be required to pay penalties or fines for accepting direct payment from a person or employer for lawful health care services.

(c) Subject to reasonable and necessary rules and regulations that do not substantially limit a person's options, the purchase or sale of health insurance in private health care systems shall not be prohibited by law or by rule or regulation.

(d) This Code section shall not:

(1) Affect which health care services a health care provider or hospital is required to perform or provide;

(2) Affect which health care services are permitted by law;

(3) Prohibit care provided pursuant to any statutes enacted by the General Assembly relating to workers' compensation;

(4) Prohibit the imposition by the General Assembly of conditions and limitations on the use or applicability of exemptions and deductions with regard to income taxation;

(5) Affect laws or rules in effect as of January 1, 2009; or

(6) Affect the terms or conditions of any health care system to the extent that those terms and conditions do not have the effect of punishing a person or employer for paying directly for lawful health care services or a health care provider or hospital for accepting direct payment from a person or employer for lawful health care services."

SECTION 2.

Article 1 of Chapter 24 of Title 33 of the Official Code of Georgia Annotated, relating to general provisions regarding insurance, is amended by adding a new Code section to read as follows:

61 "33-24-59.13.

62 (a) An insurer issuing comprehensive, major medical group, or individual health insurance
63 benefit plans may, in keeping with federal requirements, offer wellness or health
64 improvement programs, including voluntary wellness or health improvement programs that
65 provide for rewards or incentives, including, but not limited to, merchandise, gift cards,
66 debit cards, premium discounts or rebates, contributions towards a member's health savings
67 account, modifications to copayment, deductible, or coinsurance amounts, or any
68 combination of these incentives, to encourage participation in such wellness or health
69 improvement programs and to reward insureds for participation in such programs.

70 (b) The offering of such rewards or incentives to insureds under such wellness or health
71 improvement programs shall not be considered an unfair trade practice under Code Section
72 33-6-4 if such programs are filed with the Commissioner and made a part of the health
73 insurance master policy and certificates or the individual health insurance evidence of
74 coverage as a policy amendment, endorsement, rider, or other form of policy material as
75 agreed upon by the Commissioner. The Commissioner shall be authorized to develop an
76 automatic or expedited approval process for review of such wellness or health
77 improvement programs, including those programs already approved under the laws and
78 regulations of other states."

79 **SECTION 3.**

80 All laws and parts of laws in conflict with this Act are repealed.